

# **EXHIBIT "A"**

**LAW OFFICES OF JILL R. SHELOW**

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August 25, 2011

**VIA FAX 347.534.3705 AND  
FIRST CLASS MAIL**

Ms. Patricia A. Sullivan  
Senior U.S. Probation Officer  
United States District Court  
Eastern District of New York  
147 Pierrepont Street  
Brooklyn, NY 11201

Re: ***United States v. Weingarten***, Docket No. 08-CR-571-01 (JG)

Dear Ms. Sullivan:

I write as co-counsel with Donna Newman, Esquire, on behalf of Israel Weingarten to object to the Second Addendum dated June 8, 2011 to the Pre-Sentence Report prepared in anticipation of Mr. Weingarten's re-sentencing by the Honorable John Gleeson on Monday, September 12, 2011. The Second Addendum updates the original PSR and First Addendum dated March 27 and April 29, 2009, respectively.

First, we incorporate by reference and adopt all of the objections lodged by Mr. Weingarten's former counsel in their written submissions and by Mr. Weingarten to the extent that he advanced arguments and objections *pro se*.

Second, we note that the Addendum does not update Mr. Weingarten's current medical condition. The recitation of Mr. Weingarten's physical health status in the original PSR (¶¶ 152-157) is cursory because the medical records had not been provided to the Probation Department by MDC (¶154). Attached herein are excerpts from medical records prepared and maintained by Metropolitan Detention Center in Brooklyn where Mr. Weingarten was initially detained and where he is currently being held as well as medical records from FCI Petersburg where Mr. Weingarten was housed until spring 2011.

As documented in the attached, Mr. Weingarten suffers from a urethral stricture, an abnormal narrowing of the urethra. Two years ago Mr. Weingarten, following a cystoscopy and surgery to look for stones developed a condition where he feels no sensation when he needs to urinate and when he does urinate it is painful (dysuria). There is no medical treatment and the condition is not reversible. The condition can only be managed by self-catherization which Mr. Weingarten is required to do eight times daily to empty his bladder. The result is frequent urinary tract infections (treated with sulfamethoxazole) and blood in his urine (hematuria). Another side

Ms. Patricia A. Sullivan  
August 25, 2011  
Page 2

effect is edema, which is more difficult to treat because diuretics are contraindicated by the condition.

Self-catherization under normal circumstances is difficult and painful. It requires not only the necessary supplies, but also a sterile environment within which to perform the procedure. Mr. Weingarten often has to perform the procedure in an open toilet area where without access to products to sterilize the fixtures and environment. Mr. Weingarten frequently runs short of supplies and has, on occasion, had to appeal a determination that he should only perform the procedure once per day.

He also suffers from hyperlipidemia (elevated triglycerides and lipids) for which he receives medication. Mr. Weingarten has a lesion on his back- "a hyperpigment flat lesion," measuring about 1.5 cms with an irregular border. BOP medical staff has said that procedures are necessary to rule out ("RO") melanoma, but to date no biopsy has been performed. Mr. Weingarten has made several complaints about a hearing loss, and despite requests, his hearing has not been evaluated by BOP. BOP's failure to act on these medical conditions which is a small example of the medical care Mr. Weingarten receives in prison.

Also included in the excerpts provided is BOP's summary of Mr. Weingarten's general health status. The complete records as provided by MDC and FCI Petersburg to defense counsel are voluminous but are available and will be provided if Probation wants to review them.

Finally, while the Addendum notes in the section on "Institutional Adjustment" that Mr. Weingarten has not "incurred any infractions," it fails to mention the hardships owing to his strict religious observance about which Mr. Weingarten has complained. For example, the toilets in Petersburg are electric, which means that he cannot flush on the Sabbath. He is presented with food that is not kosher, and then criticized when he eats sparingly (if at all). Finally, he is bullied by other inmates. These subjects are touched upon in the mental health records provided by Petersburg that are included in the excerpts provided.

Thank you for your consideration. If you have any questions, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in cursive script that reads "Jill R. Shellow/ad".

Jill R. Shellow

Drafted but not signed

cc: AUSA Rachel Nash, Esq. (by email)  
Donna R. Newman, Esq. (by email)  
Israel Weingarten (by regular mail)



**Institution:** PEM - PETERSBURG MED FCI

**\*\*SENSITIVE BUT UNCLASSIFIED\*\***



**Institution:** PEM - PETERSBURG MED FCI

**\*\*SENSITIVE BUT UNCLASSIFIED\*\***

**Bureau of Prisons  
Health Services  
Clinical Encounter**

Inmate Name: WEINGARTEN, ISRAEL MOSES	Sex: M	Reg #: 76830-053
Date of Birth: [REDACTED]	Provider: Beam, Herbert MD	Race: WHITE
Encounter Date: 07/16/2009 13:20		Facility: DEV

Chronic Care Visit encounter performed at Health Services.

**SUBJECTIVE:**

**COMPLAINT 1**      **Provider:** Beam, Herbert MD

**Chief Complaint:** Other Problem

**Subjective:** weight check and general assessment

denies food allergies, just gets abdominal pain eating bananas, potatoes, oranges, eggplant, peppers and excessive mucus eating dairy products

does not have active coronary disease, possible rheumatic fever as child, history pericarditis, and a scanty history of myocardial infarct in '94 but a treatment history not consistent with myocardial infarct. He was followed pre incarceration by a cardiologist and is not on the usual post MI meds and does not know his ejection fraction

urinary retention was by history from infection following instrumentation for bladder stones. he self cath every three hours and has been using an unusually large number of catheters, a clean one every time

he had Benign prostatic hypertrophy

he wonders if he has narcolepsy and did not fall asleep while I was examining him

he says he is hard of hearing and appears to hear fine

**Pain Location:**

**Pain Scale:** 0

**Pain Qualities:**

**History of Trauma:** No

**Onset:**

**Duration:**

**Exacerbating Factors:**

**Relieving Factors:**

**Comments:**

**ROS:**

**General**

**Constitutional Symptoms**

Anorexia (no), Chills (no), Fatigue (no), Fever (no)

**Cardiovascular**

**General**

Angina (no), Edema (no), Exertional dyspnea (no), Hx Hypertension (no), Hx of Heart Disease (yes), Hx of Heart Surgery (no), Hx Murmur (no), Hx of Rheumatic Fever (yes)

**Pulmonary**

**Respiratory System**

Cough - Dry (no), Cough - Productive (no), Dyspnea (no), Hx Asthma (no)

**GU**

**General**

Dysuria (no), Hematuria (no), Hesitancy (no), Hx Kidney Stones (no), Incontinence (no), Infections (no), Nocturia (no), Oliguria (no), Pain or Colic (no), Testicular Pain (no), Urgency (no), Urinary Frequency (no),

in this regard  
the following  
information is

**REDACTED**

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**Bureau of Prisons  
Health Services  
Clinical Encounter**

Inmate Name: WEINGARTEN, ISRAEL MOSES	Reg #: 76830-053
Date of Birth: [REDACTED]	Sex: M
Encounter Date: 04/09/2009 10:19	Provider: Goldstein, Peter MD
	Race: WHITE
	Facility: BRO

Chronic Care Visit encounter performed at Health Services.

**SUBJECTIVE:**

**COMPLAINT 1**      **Provider:** Goldstein, Peter MD

**Chief Complaint:** CARDIAC CLINIC

**Subjective:** Patient is a 59 yo wm who has been self-catherizing s/p a traumatic cystoscopy 2 years ago during which there was injury to the bladder neck. He does not have a sensation to void. He does not have Incontince and was told that there is no prostate issue even though the psa is elevated. His PMH is significant for an MI 15 years ago complicated by pericarditis. Currently, he c/o swelling in the LE's bilaterally. He has no DOE nor CP and no orthopnea.

**Pain Location:**

**Pain Scale:**

**Pain Qualities:**

**History of Trauma:** No

**Onset:**

**Duration:**

**Exacerbating Factors:**

**Relieving Factors:**

**Comments:**

**OBJECTIVE:**

**Pulse:**

Date	Time	Rate Per Minute	Location	Rhythm	Provider
04/09/2009	10:28 BRO	75			Goldstein, Peter MD

**Blood Pressure:**

Date	Time	Value	Location	Position	Cuff Size	Provider
04/09/2009	10:28 BRO	112/74				Goldstein, Peter MD

**SaO2:**

Date	Time	Value(%)	Air	Provider
04/09/2009	10:28 BRO	100	Room Air	Goldstein, Peter MD

**Exam:**

**General**

**Appearance/Nutrition**

Appears Well (yes), NAD (yes), Alert and Oriented x 3 (yes)

**Affect**

Pleasant (yes), Cooperative (yes)

Very thin

**Head**

**General**

Atraumatic/Normocephalic (yes)

**Eyes**



Inmate Name: WEINGARTEN, ISRAEL MOSES	Reg #: 76830-053
Date of Birth: [REDACTED]	Sex: M
Encounter Date: 12/22/2008 13:21	Provider: Beaudouin, Robert MD
	Race: WHITE
	Facility: BRO

**Other:**

INFORMED "ORDERING SUPPLY TECH" TO ORDER PT'S INSERTION KIT FOR HIS SEL CATH.  
F/U IN 2-4 WKS W/ LAB REPORT.

**Patient Education Topics:**

<u>Date Initiated</u>	<u>Format</u>	<u>Handout/Topic</u>	<u>Provider</u>	<u>Outcome</u>
12/22/2008	Counseling	Diagnosis	Beaudouin, Robert	Verbalizes Understanding

Copoly Required: No

Cosign Required: No

Telephone/Verbal Order: No

Clinical Encounter completed on WEINGARTEN, ISRAEL MOSES by Beaudouin, Robert MD on 12/22/2008 13:21.

**Bureau of Prisons  
Health Services  
Clinical Encounter**

Inmate Name: WEINGARTEN, ISRAEL MOSES	Sex: M	Reg #: 76830-053	Race: WHITE
Date of Birth: [REDACTED]	Provider: Beaudouin, Robert MD	Facility: BRO	
Encounter Date: 10/20/2008 11:14			

Chronic Care Visit encounter performed at Health Services.

**SUBJECTIVE:**

**COMPLAINT 1**      **Provider:** Beaudouin, Robert MD

**Chief Complaint:** Urinary Problem

**Subjective:** 58 YR OLD MALE REPORTS 1.5 YRS AGO HE WAS DIAGNOSED W/ STONES IN THE BLADDER NECK. HAD A DIAGNOSTIC CYSTOSCOPY, HAD URETEROSCOPIC STONE EXTRACTION. REPORTS 6 MONTHS AGO HE DEVELOPED URINARY RETENTION SECONDARY TO THE TRAUMATIC CYSTOSCOPY. STATES HE USED ROCHESTER SILICONE URINARY PERSONAL CATHETER 8 FRENCH, 10 IN LONG. STATES HE USES TRIAD INSERTION KIT W/ CHG FREE LUBRICATING JELLY WHICH DOES NOT BURN NOR IRRITATE HIS URETHRA. STATES HE HAS SEEN SOME BLOOD IN HIS URINE POST CATHETERIZATION LAST NIGHT WHICH HE ATTRIBUTES TO THE PRESENT CATHETER HE IS USING NOW. REPORTS HX ELEVATED PSA WHICH HE WAS TOLD IS DUE TO THE DAILY CATHETERIZATION. DENIES PMHX OF HTN, DM. ADMITS TO HX OF RECURRING PERICARDITIS. ADMITS TO SEEING SOME BLOOD IN THE URINE POST CATHETERIZATION. REPORTS HX OF UTI FOR WHICH HE HAD STANDING RX OF CIPRO.

**Pain Location:**

**Pain Scale:**

**Pain Qualities:**

**History of Trauma:** No

**Onset:**

**Duration:**

**Exacerbating Factors:**

**Relieving Factors:**

**Comments:**

**OBJECTIVE:**

**Pulse:**

<u>Date</u>	<u>Time</u>	<u>Rate Per Minute</u>	<u>Location</u>	<u>Rhythm</u>	<u>Provider</u>
10/21/2008	10:09 BRO	72	Via Machine		Beaudouin, Robert MD

**Respirations:**

<u>Date</u>	<u>Time</u>	<u>Rate Per Minute</u>	<u>Provider</u>
10/21/2008	10:09 BRO	12	Beaudouin, Robert MD

**Blood Pressure:**

<u>Date</u>	<u>Time</u>	<u>Value</u>	<u>Location</u>	<u>Position</u>	<u>Cuff Size</u>	<u>Provider</u>
10/21/2008	10:09 BRO	140/85	Left Arm	Sitting	Adult-regular	Beaudouin, Robert MD

**SaO2:**

<u>Date</u>	<u>Time</u>	<u>Value(%)</u>	<u>Alr</u>	<u>Provider</u>
10/21/2008	10:09 BRO	100		Beaudouin, Robert MD

**Exam:**

Generated 10/21/2008 10:46 by Beaudouin,

Bureau of Prisons - BRO

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**Bureau of Prisons  
Health Services  
Health Problems**

Reg #: 76830-053		Inmate Name: WEINGARTEN, ISRAEL				
<u>Description</u>	<u>Type</u>	<u>ICD</u>	<u>Diag. Date</u>	<u>Status</u>	<u>Status Date</u>	<u>Comments</u>
Retention of urine, unspecified 10/07/2008 13:50 EST Brooks, Chauna PA-C	Chronic	788.20	2007	Current	10/07/2008	
Elevated prostate specific antigen [PSA] 05/26/2011 09:10 EST Newland, R. MD/CC	Chronic	790.93	05/26/2011	Current	05/26/2011	
Benign localized hyperplasia of prostate w/obstruc 04/09/2009 10:43 EST Goldstein, Peter MD	Chronic	600.21	04/09/2009	Current	04/09/2009	RULE OUT
Dermatophytosis of nail (Tinea unguium) 12/22/2008 13:37 EST Beaudouin, Robert MD	Chronic	110.1	12/22/2008	Current	12/22/2008	
Benign localized hyperplasia of prostate w/obstruc 10/07/2008 13:50 EST Brooks, Chauna PA-C	Chronic	600.21	10/07/2008	Current	10/07/2008	
Hyperkeratosis 03/18/2011 14:41 EST Newland, R. NER R-MD	Temporary/Acute	102.3	03/18/2011	Current	03/18/2011	
History of urinary (tract) infection 10/21/2008 10:19 EST Beaudouin, Robert MD	Temporary/Acute	V13.02	10/21/2008	Current	10/21/2008	
Dermatophytosis of the body (Tinea imbricata) 10/21/2008 10:35 EST Beaudouin, Robert MD	Temporary/Acute	110.5	10/21/2008	Current	10/21/2008	
Coronary atheroscler of unsp type of bypass graft 07/22/2009 17:58 EST Yirga, Andarga D. MLP	History/Resolved	414.05	1994	Resolved	07/09/2009	
07/09/2009 14:51 EST Bernhard, Karl MD	Chronic	414.05	1994	Remission	07/09/2009	
Hyperplasia of prostate, unspec, w/o urinary obstr 03/17/2011 11:44 EST Newland, R. NER R-MD	History/Resolved	600.90	2009	Resolved	07/09/2009	PSA in Brooklyn InApril was 6.3
07/09/2009 16:59 EST Bernhard, Karl MD	Chronic	600.90	2009	Current	07/09/2009	PSA in Brooklyn InApril was 6.3

Reg #: 76630-053		Inmate Name: WEINGARTEN, ISRAEL				
Description	Type	ICD	Diag. Date	Status	Status Date	Comments
Urinary tract infection, site not specified						
08/13/2010 14:26 EST Hillelwork, Platin MLP	History/Resolved	599.0	08/13/2010	Resolved	08/13/2010	
Edema						
03/17/2011 11:44 EST Newland, R. NER R-MD	History/Resolved	782.3	08/10/2009	Resolved	08/10/2009	Pitting edemas
08/10/2009 12:18 EST Yerga, Andarge D. MLP	Temporary/Acute	782.3	08/10/2009	Current	08/10/2009	Pitting edemas
Edema						
03/17/2011 11:44 EST Newland, R. NER R-MD	History/Resolved	782.3	04/09/2009	Resolved	04/09/2009	
04/09/2009 10:43 EST Goldstein, Peter MD	Chronic	782.3	04/09/2009	Current	04/09/2009	
Plantar wart						
03/17/2011 11:44 EST Newland, R. NER R-MD	History/Resolved	078.12	12/22/2008	Resolved	12/22/2008	
12/22/2008 13:45 EST Beaudouin, Robert MD	Temporary/Acute	078.12	12/22/2008	Current	12/22/2008	
Total: 14						

**Bureau of Prisons  
Health Services  
Clinical Encounter - Administrative Note**

Inmate Name: WEINGARTEN, ISRAEL	Sex: M Race: WHITE	Reg #: 76830-053
Date of Birth: [REDACTED]	Provider: Newland, R. MD/CC	Facility: BRO
Note Date: 05/26/2011 09:03		Unit: E08

Admin Note encounter performed at Health Services.

**Administrative Notes:**

**ADMINISTRATIVE NOTE 1**      Provider: Newland, R. MD/CC

Labs done 04/21/2011 PSA 9.650 he self cath and is known for Hx. Stricture and Benign Prostate Hypertrophy.

**ASSESSMENTS:**

<u>Description</u>	<u>ICD9</u>	<u>Status</u>	<u>Status Date</u>	<u>Progress</u>	<u>Type</u>
Elevated prostate specific antigen [PSA]	790.93	Current	05/26/2011	Not Assessed	Chronic

**Copay Required:** No

**Cosign Required:** No

**Telephone/Verbal Order:** No

Completed by Newland, R. MD/CC on 05/26/2011 09:10



**Bureau of Prisons  
Health Services  
Clinical Encounter**

Inmate Name: WEINGARTEN, ISRAEL  
Date of Birth: [REDACTED]  
Encounter Date: 03/17/2011 17:38

Sex: M Race: WHITE  
Provider: Newland, R. NER R-MD

Reg #: 76830-053  
Facility: BRO  
Unit: J03

Chronic Care encounter performed at Health Services.

**SUBJECTIVE:**

**COMPLAINT 1** Provider: Newland, R. NER R-MD

**Chief Complaint:** ENDO/LIPID

**Subjective:** 61 years old White male with Hx. S/P MI 1994, Hx. Hyperlipidemia, Hx. Urine retention that requires self cath. Hx. Sensorineural hearing loss bilateral. Patient stated that he is a Federal Writ. He stated that self cath 8 times a day. He denies having any chest pain, no shortness of breath. He denies having any other medical issues except for a lesion on his left upper back that may be a cancer lesion did not noticed it until recently.

**Pain Location:**

**Pain Scale:** 0

**Pain Qualities:**

**History of Trauma:**

**Onset:**

**Duration:**

**Exacerbating Factors:**

**Relieving Factors:**

**Comments:**

**Seen for clinic(s):** Endocrine/Lipid, General

**Added to clinic(s):** Endocrine/Lipid, General

**OBJECTIVE:**

**Temperature:**

Date	Time	Fahrenheit	Celsius	Location	Provider
03/17/2011	17:39 BRO	98.1	36.7	Oral	Newland, R. NER R-MD

**Pulse:**

Date	Time	Rate Per Minute	Location	Rhythm	Provider
03/17/2011	17:39 BRO	73	Via Machine	Regular	Newland, R. NER R-MD

**Respirations:**

Date	Time	Rate Per Minute	Provider
03/17/2011	17:39 BRO	18	Newland, R. NER R-MD

**Blood Pressure:**

Date	Time	Value	Location	Position	Cuff Size	Provider
03/17/2011	17:39 BRO	138/88	Left Arm	Sitting	Adult-large	Newland, R. NER R-MD

**SaO2:**

Date	Time	Value(%)	Alr	Provider
03/17/2011	17:39 BRO	99	Room Air	Newland, R. NER R-MD

**Height:**





Inmate Name: WEINGARTEN, ISRAEL

Date of Birth: [REDACTED]

Encounter Date: 03/17/2011 17:38

Sex: M

Race: WHITE

Provider: Newland, R. NER R-MD

Reg #: 76830-053

Facility: BRO

Unit: J03

Date	Time	Inches	Cm	Provider
03/17/2011	17:39 BRO.	67.0	170.2	Newland, R. NER R-MD

## Weight:

Date	Time	Lbs	Kg	Waist Circum.	Provider
03/17/2011	17:39 BRO	130.0	59.0		Newland, R. NER R-MD

## Exam:

## General

## Appearance/Nutrition

Yes: Appears Well, NAD, Alert and Oriented x 3

## Skin

Back right upper aspect there is a hyperpigment lesion flat of 1.5 cm with irregular border.

## Head

## General

Yes: Symmetry of Motor Function, Atraumatic/Normocephalic

## Eyes

## General

Yes: PERRLA, Extraocular Movements Intact

## Neck

## General

Yes: Supple, Symmetric, Trachea Midline

## Pulmonary

## Auscultation

Yes: Clear to Auscultation Bilaterally, Vesicular Breath Sounds Bilaterally, Bronchial Breath Sounds

## Cardiovascular

## Auscultation

Yes: Regular Rate and Rhythm (RRR), Normal S1 and S2

## Abdomen

## Palpation

Yes: Soft, Non-tender on Palpation

## Gastrointestinal

## Anus-Perianal

No: Lump(s)

## Anus and Rectum

Yes: Brown Stool on Glove, Stool in Vault, Normal Tone

## Genitourinary

## Prostate

Yes: Normal Size

## Musculoskeletal

## Ankle/Foot/Toes

Yes: Normal Exam, Full Range of Motion, Non-tender on Palpation

## Neurologic

## Cranial Nerves (CN)

Yes: CN 2-12 Intact Grossly

## ASSESSMENT:

Description	ICD9	Status	Status Date	Progress	Type
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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Bureau of Prisons  
Health Services  
Clinical Encounter**

Inmate Name: WEINGARTEN, ISRAEL	Sex: M	Reg #: 76830-053
Date of Birth: [REDACTED]	Provider: Hal, Ignatius PA-C	Race: WHITE
Encounter Date: 05/28/2010 12:33		Facility: PEM

Evaluation encounter performed at Health Services.

**SUBJECTIVE:**

**COMPLAINT 1**      **Provider:** Hall, Ignatius PA-C

**Chief Complaint:** Urinary Problem

**Subjective:** 60 y/o male c/o burning urination. Uses catheter daily.

**Pain Location:**

**Pain Scale:**

**Pain Qualities:**

**History of Trauma:**

**Onset:**

**Duration:**

**Exacerbating Factors:**

**Relieving Factors:**

**Comments:**

**ROS:**

**GU**

**General**

Dysuria (yes), Hematuria (yes)

Uses catheter

**OBJECTIVE:**

**Temperature:**

<u>Date</u>	<u>Time</u>	<u>Fahrenheit</u>	<u>Celsius</u>	<u>Location</u>	<u>Provider</u>
05/28/2010	12:33 PEX	98.4	36.9	Oral	Hall, Ignatius PA-C

**Pulse:**

<u>Date</u>	<u>Time</u>	<u>Rate Per Minute</u>	<u>Location</u>	<u>Rhythm</u>	<u>Provider</u>
05/28/2010	12:33 PEX	79	Via Machine		Hall, Ignatius PA-C

**Blood Pressure:**

<u>Date</u>	<u>Time</u>	<u>Value</u>	<u>Location</u>	<u>Position</u>	<u>Cuff Size</u>	<u>Provider</u>
05/28/2010	12:33 PEX	117/78	Left Arm	Sitting	Adult-regular	Hall, Ignatius PA-C

**Exam:**

**Diagnostics**

**Laboratory**

Results (yes)

UA - GLU: NEG; BIL: NEG; KET: NEG; SG: 1.015; BLD: TR; PH: 6.5; PRO: NEG; URO:0.2; NIT: POS;

LEU: SM

**General**

**Appearance/Nutrition**

NAD (yes), WD/WN (yes), Alert and Oriented x 3 (yes)

**ASSESSMENT:**

Bureau of Prisons  
Prison Director  
Washington, D.C.

[REDACTED]

Dear Sir:

I am writing to you regarding the matter of [REDACTED] who is currently incarcerated in the Federal Prison for Women at Alderson, West Virginia. [REDACTED] is a [REDACTED] and is currently serving a [REDACTED] sentence for [REDACTED].

I am writing to you because [REDACTED] is a [REDACTED] and is currently serving a [REDACTED] sentence for [REDACTED]. I am writing to you because [REDACTED] is a [REDACTED] and is currently serving a [REDACTED] sentence for [REDACTED].

Sincerely,  
[REDACTED]

Enclosed for you are [REDACTED] and [REDACTED].

Very truly yours,  
[REDACTED]

cc: [REDACTED]  
cc: [REDACTED]  
cc: [REDACTED]

Inmate Name: WEINGARTEN ISRAEL	Reg # 76830-053
Date of Birth: [REDACTED]	Sex: M Race: WHITE
Encounter Date: 05/28/2010 12:33	Provider: Hall, Ignatius PA-C Facility: PEM

Description	ICD9	Status	Status Date	Progress	Type
History of urinary (tract) infection	V13.02	Current	10/21/2008	Recurrence	Temporary/Acute

**PLAN:****Renew Medication Orders:**

Rx#	Medication	Order Date	Prescriber Order
44225-PEX	Sulfamethoxazole/Trimeth 800mg /160mg tab	05/28/2010 12:33	Take one tablet by mouth twice daily for 14 days x 14 day(s)

Indication: History of urinary (tract) infection

**Disposition:**

Follow-up at Sick Call as Needed

**Patient Education Topics:**

Date Initiated	Format	Handout/Topic	Provider	Outcome
05/28/2010	Counseling	Plan of Care	Hall, Ignatius	Verbalizes Understanding

Copay Required: No

Cosign Required: No

Telephone/Verbal Order: No

Completed by Hall, Ignatius PA-C on 05/28/2010 12:45





**Bureau of Prisons  
Health Services  
Clinical Encounter - Administrative Note**

Inmate Name:	WEINGARTEN, ISRAEL	Reg #:	76830-053
Date of Birth:	[REDACTED]	Sex:	M
Note Date:	03/02/2010 15:24	Race:	WHITE
		Provider:	Hilletework, Platin MLP
		Facility:	PEM

Admin Note encounter performed at Health Services.

**Administrative Notes:**

**ADMINISTRATIVE NOTE 1**      **Provider:** Hilletework, Platin MLP

SEEN BY UROLOGIST.RECOMMENDED SELF CAT. 8X/DAY WITH STERILE CATHETER.  
ALSO RECOMMENDED TO GET PT. RECORD FROM HIS UROLOGIST IN NY.

**Copay Required:**No

**Cosign Required:** Yes

**Telephone/Verbal Order:** No

Completed by Hilletework, Platin MLP on 03/02/2010 16:04

Requested to be cosigned by Shah, Suhasini N. MD.

Cosign documentation will be displayed on the following page.

Division of Criminal Justice  
Harris County, Texas  
[REDACTED]

[REDACTED]

[REDACTED]

**Bureau of Prisons  
Health Services  
Clinical Encounter - Administrative Note**

Inmate Name:	WEINGARTEN, ISRAEL	Reg #:	76830-053
Date of Birth:	[REDACTED]	Sex:	M
Note Date:	08/31/2009 14:17	Provider:	Yirga, Andarge D. MLP
		Race:	WHITE
		Facility:	PEM

Admin Note encounter performed at Health Services.

**Administrative Notes:**

**ADMINISTRATIVE NOTE 1**      **Provider:** Yirga, Andarge D. MLP

Inmate supplies not available at this time.

**ASSESSMENTS:**

**Cosign Required:** Yes

**Telephone/Verbal Order:** No

Administrative Note completed on WEINGARTEN, ISRAEL by Yirga, Andarge D. MLP on 08/31/2009 14:17

Requested to be cosigned by Ong, Edgardo MLP, HSA.

Cosigned by Ong, Edgardo MLP, HSA on 09/01/2009 07:17.

**Cosigner Comments:**

Not until the shipment is received. This inmate uses 8F (Pediatric) size which is not available from any other institution. A non government vendor is being solicited. I have advised this inmate of the process and the progress of his order during the mainline, Monday, August 31, 2009.

Office of the  
Attorney General  
Clinical Endocrinology - Administrative

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Bureau of Prisons  
Health Services  
Clinical Encounter - Administrative Note**

Inmate Name:	WEINGARTEN, ISRAEL	Sex:	M	Reg #:	76890-053
Date of Birth:	[REDACTED]	Provider:	Yirga, Andarge D. MLP	Race:	WHITE
Note Date:	07/24/2009 08:13	Facility:	PEM		

Admin Note encounter performed at Health Services.

**Administrative Notes:**

**ADMINISTRATIVE NOTE 1**      **Provider:** Yirga, Andarge D. MLP

Inmate arrived from other institution and claims, "needs catheterize him self x 8 dally with pediatric catheters. But according to MD in Davens needs to use cath. "once daily".(see BEMR)  
Referred him to see Urology clinic next visit here in Petersburg.

**ASSESSMENTS:**

**New Consultation Requests:**

<u>Consultation/Procedure</u>	<u>Due Date</u>	<u>Priority</u>	<u>Translator</u>	<u>Language</u>
Urology	08/20/2009	Routine	No	

**Reason for Request:**

59 y/o male with self catheterization x 8 daily for possible urinary retention. Evaluate

**Provisional Diagnosis:**

R/O Stricture v. BPH

**Current Medications:**

Aspirin 81 MG EC Tab Exp: 08/22/2009 SIG: Take one tablet by mouth each day

**Cosign Required:** Yes

**Telephone/Verbal Order:** No

Administrative Note completed on WEINGARTEN, ISRAEL by Yirga, Andarge D. MLP on 07/24/2009 08:13

Requested to be cosigned by Rice, Benjamin MD.

Cosigned by Rice, Benjamin MD on 07/24/2009 12:27.



**Bureau of Prisons  
Health Services  
Clinical Encounter - Administrative Note**

Inmate Name:	WEINGARTEN, ISRAEL MOSES	Reg #:	76830-053
Date of Birth:	07/16/1958	Sex:	M
Note Date:	07/16/2009 15:48	Provider:	Beam, Herbert MD
		Race:	WHITE
		Facility:	DEV

Admin Note encounter performed at Health Services.

**Administrative Notes:**

**ADMINISTRATIVE NOTE 1**      Provider: Beam, Herbert MD

addendum to chronic care note:

there is no medical reason for the inmate to be housed at Devens

there is no medical reason for diet modification of what is being presently provided

the inmate will catheterize on his present schedule and will receive one catheter per day consistent with community standards

the PSA of 6.3 is caused by the 8 times per day instrumentation, nevertheless the PSA will be continued to be monitored

**ASSESSMENTS:**

Cosign Required: No

Telephone/Verbal Order: No

Administrative Note completed on WEINGARTEN, ISRAEL MOSES by Beam, Herbert MD on 07/16/2009 15:48



Supervisory Services  
Clinical Encounters - Administrative Notes

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

**THE LAW OFFICES OF  
DONNA R. NEWMAN, PA**

MEMBER:  
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REPLY TO NY

August 29, 2011

**Via facsimile to 347-534-3705 and  
first class mail**

Ms. Patricia A. Sullivan  
Senior U.S. Probation Officer  
United States District Court  
for the Eastern District of New York  
147 Pierrepont Street  
Brooklyn, NY 11201

**Re: United States v. Israel Weingarten  
Docket No. 08-CR-571-01(JG)**

Dear Ms Sullivan:

Please allow this letter to supplement defense's objection letter dated August 25, 2011. Proper application of Guideline 3D1.2 results in an Adjusted Sentencing Guidelines Level of 35 not Level 37 as found by Probation. See, Second Addendum PSR at ¶ 89. The proper calculation counts as one unit Counts One and Four and Counts Two and Five as another unit.

While Counts One and Four are separate instances of fear and risk of harm from Counts Two and Five, it can not be said that Count One presents a separate instance of harm or risk of harm than Count Four. The same must be said about Counts Two and Five. Counts One and Four concern the same trip to Brooklyn from Israel and Counts Two and Five concern the same trip from Brooklyn back to Belgium. The charge here is not specific instances of e.g. rape but rather Ms. Weingarten's travel and Mr. Weingarten's travel at the

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ATTORNEY AT LAW

MEMBER  
NY AND NJ BAR

same time for the identical conduct. In other words, Ms. Weingarten was not put in any separate harm or risk of harm by Mr. Weingarten's travel.

Subsection (a) requires grouping "when counts involve the same victim and the same act or transaction." U.S.S.G. § 3D1.2(a). The Commission explains that under subsection (a), "counts are to be grouped together when they represent essentially single injury or *are part of single criminal episode or transaction involving the same victim.*" *Id.*, comment. (n.3)(emphasis added). The examples indicate that under this subsection grouping is warranted where "[t]he defendant is convicted of three counts of unlawfully bringing aliens into the United States, all counts arising out of a single incident." *Id.* In this case, Mr. Weingarten's transportation of his daughter from Israel to Brooklyn and his simultaneous travel from Israel to Brooklyn both with the intent to engage her in sexual activity does not present any additional or different harm or risk to the victim. Both charges stem from the same episode (travel from Israel to Brooklyn) and of course the same victim. The same analysis applies to Counts Two and Five. Grouping of Counts One and Four and the grouping of Counts Two and Five is required by application of subsection (a) of § 3D1.2.

Subsection (b) provides that counts involve substantially the same harm "when counts involve the same victim and two or more acts or transactions connected by a common criminal objective or constituting part of a common scheme or plan." U.S.S.G. § 3D1.2(b). The Commission instructs that "counts that are part of a single course of conduct with a single criminal objective and represent essentially one composite harm to the same victim are to be grouped together, even if they constitute legally distinct offenses occurring at different times." *Id.*, commentary (n. 4). This Guideline does not apply where the defendant

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is for example *convicted* of two counts of rape for raping the same person on different days. *Id.*, commentary (n. 4). (Emphasis added). Mr. Weingarten was not *convicted* of rape, he was not convicted of sexual abuse for specific acts on specific dates. Rather, he was convicted of transporting his daughter and simultaneously traveling to the same place for a specific period for a single criminal objective-sexual abuse. Therefore, application of subsection (b) results in the grouping of Counts One and Four and the grouping of Counts Two and Five.

Mr. Weingarten's Guideline sentencing range based on a total adjusted offense level of 35 and a criminal history category of I is 168 to 210 months.

Very truly yours,

A handwritten signature in cursive script, reading "Donna R. Newman / ad".

Donna R. Newman  
DRN/ad

cc: AUSA Rachel Nash-via email  
Jill Shellow, Esq.-via email  
Israel Weingarten-via 1<sup>st</sup> class mail